



State of Washington
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdcc.wa.gov

TO: Members, Public Disclosure Commission

FROM: Susan Harris, Assistant Director

DATE: September 9, 2004

SUBJECT: Voters Education Committee, Bruce Boram, Valerie Huntsberry and other
Unknown Agents – Apparent Failure to Register and Report as a Political
Committee

LAW

RCW 42.17.040 through RCW 42.17.090 requires that a person or entity with the expectation of receiving contributions or making expenditures in support of or in opposition to any candidate or any ballot proposition register with the Public Disclosure Commission and file frequent and detailed reports of contribution and expenditure activities.

RCW 42.17.120 states: “No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment.”

FACTS

Summary - The Public Disclosure Commission staff became aware that on or about September 2, 2004, advertisements began to be broadcast on television stations around Washington State that are identified as being paid for by Voters Education Committee. The ads concerned Deborah Senn, a candidate for Attorney General, who is on the September 14, 2004 primary election ballot.

The Voters Education Committee has filed form 8871, Notice of Section 527 Status, with the Internal Revenue Service identifying Bruce Boram as the Contact and Valerie Huntsberry as the Custodian of Records. As stated on this form, the purpose of the organization is “a non-partisan (sic), non-profit, non-discriminatory, political action committee which provides issue education.” (SEE ATTACHMENT 1)

Staff obtained and reviewed a copy of the Committee’s initial ad that was broadcast on KIRO TV on September 3, 2004. The text of the audio portion of the ad is as follows:

“Who is Deborah Senn looking out for? As Insurance Commissioner, Senn suspended most of the \$700,000 fine against an insurance company in exchange for the company’s agreement to pay for four new staff members in Senn’s own office. Senn even tried to cover up the deal from state legislators. The Seattle Post Intelligencer said Senn’s actions easily could lead to conflict of interest abuses. Deborah Senn let us down. Log on to learn more.”

It has been reported in the media that at least \$500,000 has been paid or pledged to various TV stations around the state. Staff has verified that at least \$365,000 has been spent at three TV stations in the Puget Sound area. The ads have been running in media outlets throughout the state, including Seattle, Tacoma, Yakima and Spokane.

In determining what is “express advocacy” and thus requires a committee to register and report their activities, the Washington Supreme Court in Washington State Republican Party v. Washington State Public Disclosure Commission et al., 141 Wn.2d 245, 270 4 P.3d 808 (2000), stated, “[W]hen a candidate’s character and campaign tactics are attacked, the ad may be subject to only one reasonable interpretation: an exhortation to vote against the candidate.” Following this decision, the Commission issued an interpretive opinion that is posted on the Commission’s website, outlining the Court’s and Commission’s view of what “express advocacy” is.

We are not here today because the ad was negative in tone, and certainly not because it was partisan. We are here today because Deborah Senn’s character was attacked, and as such, the ad constitutes “express advocacy.”

Staff asserts that the ad constitutes an attack on the character of Ms. Senn. The first sentence, “Who is Deborah Senn looking out for” attacks Ms. Senn’s character. It is worded in the present tense and when taken in context with the remainder of the message, it tells the viewer that she was less than honorable in carrying out her public duties; that she put her office’s interests ahead of the public interest, ahead of doing the right thing.

The sentence, “Senn even tried to cover up the deal from state legislators” is an additional attack on Ms. Senn’s character. The dictionary definition of the term “cover up” is “an effort or strategy intended to conceal something, as a crime or scandal.” The plain meaning of the words “cover up” connote dishonest activity by the perpetrator. Therefore, use of the term “cover up” constitutes an accusation that Ms. Senn engaged in under-handed activity and is not to be trusted.

The advertisement, taken as a whole, represents an assault on Ms. Senn’s character as contemplated by the Washington Supreme Court because it goes beyond taking issue with Ms. Senn’s actions as Insurance Commissioner, and assails her integrity and credibility.

Voters Education Committee is a Political Committee – Voters Education Committee, Bruce Boram, Valerie Huntsberry and other unknown agents (VEC et al.) made significant expenditures for broadcast advertising that maligned Ms. Senn’s character resulting in express opposition to her election. This activity makes Voters Education Committee and its agents a political committee under state law and requires the committee to register and file detailed reports of contributions received and expenditures made with the Public Disclosure Commission. To date, neither Voters Education Committee, Bruce Boram, Valerie Huntsberry nor other unknown agents of Voters Education Committee have registered or reported as required by the Public Disclosure Law. In fact, through their counsel, they have refused to do so by claiming that their ad is issue advocacy.

VEC et al. have Concealed Activities – PDC staff informed Voters Education Committee, its contact person, Bruce Boram, and its custodian of records, Valerie Huntsberry, on September 7, 2004 that it had until 12:00 p.m. (Noon) on September 9, 2004 to file all required forms,

including a committee registration statement and detailed reports of contributions received and expenditures made.

After being put on notice, VEC et al. failed to comply with PDC staff's request to file the required reports. VEC et al. have received contributions and/or made expenditures in such a manner so as to conceal the identity of the source(s) of their contributions and in such a manner as to conceal their expenditures.

CONCLUSION AND RECOMMENDATION

Based on the facts specified above, staff recommends that the Commission find apparent multiple violations of RCW 42.17.040 through 42.17.090 and 42.17.120 by Voters Education Committee, Bruce Boram, Valerie Huntsberry, and other unknown agents of Voters Education Committee by:

- failing to register and report as a political committee;
- failing to file detailed reports of their contributions received and expenditures made;
- concealing the amount and identity of the source(s) of their contributions and the amount and recipients of their expenditures.

Based on these findings, the Commission is urged to refer the matter to the Office of the Attorney General for appropriate action, including seeking a court order compelling Voters Education Committee, Bruce Boram, Valerie Huntsberry or other unknown agents of the Committee to file the disclosure reports required by RCW 42.17.040 through 42.17.090.